

Commodity Credit Corporation, USDA

§ 1480.3

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§ 1480.1 Applicability.

This part sets forth the terms and conditions of the 2001 and 2002-Crop Disaster Program (CDP). The CDP makes disaster payments to producers who have incurred losses in quantity or quality to eligible 2001 or 2002 crops due to disasters as determined by the Commodity Credit Corporation (CCC) under the Agricultural Assistance Act of 2003 (Pub. L. 108-007).

§ 1480.2 Administration.

(a) The program will be administered under the general supervision of the executive Vice President, CCC, and shall be carried out in the field by Farm Service Agency (FSA) State and county committees.

(b) State and county committees and representatives do not have the authority to modify or waive any of the provisions of this part.

(c) The State committee shall take any action required by this part that has not been taken by a county committee. The State committee shall also:

(1) Correct or require a county committee to correct any action taken by

such FSA county committee that is not in accordance with this part; and

(2) Require a county committee to withhold taking or reverse any action that is not in accordance with this part.

(d) No delegation in this part to an State or county committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by an State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify non-statutory deadlines or other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program.

§ 1480.3 Definitions.

The definitions in this section apply to all determinations made under this part. The terms defined in part 718 of this title and 1400 and 1437 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section. The definitions follow:

Actual production means the total quantity of the crop appraised, harvested or that could have been harvested as determined by the FSA State or county committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

Administrative fee means an amount the producer must pay for NAP for non-insurable crops.

Appraised production means production determined by FSA, or a company reinsured by the Federal Crop Insurance Corporation (FCIC), that was unharvested but which was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the

yield used to determine the guarantee. For crops covered under the Non-insured Crop Disaster Assistance program, the approved yield is established according to part 1437 of this chapter. Only the approved yields based on production evidence submitted to FSA prior to the 2003 Act will be used for purposes of the 2001 or 2002 CDP. Other yields may be assigned when an eligible approved yield is not available.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquacultural species means any aquacultural species as defined in part 1437 of this chapter.

Average market price means the price or dollar equivalent on an appropriate basis for an eligible crop established by CCC for determining payment amounts. Such price will be based on the harvest basis without the inclusion of transportation, storage, processing, packing, marketing, or other post-harvesting expenses and will be based on historical data.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

CCC means the Commodity Credit Corporation.

Control county means for a producer with farming interests in only one county, the county FSA office in which the producer's farm(s) is administratively located; or for a producer with farming interests that are administratively located in more than one county FSA office, the county FSA office designated by FSA to control the payments received by the producer.

County committee means the county FSA committee.

Crop insurance means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

Crop year means: for insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy; and for non-insurable crops, the year harvest normally begins for the crop, except the crop year for all aquacultural species and nursery crops shall mean the period from October 1 through the following September 30, and the crop year for purposes of calculating honey losses shall be the period running from January 1 through the following December 31.

Disaster means damaging weather, including drought, excessive moisture, hail, freeze, tornado, hurricane, typhoon, excessive wind, excessive heat, weather-related saltwater intrusion, weather-related irrigation water rationing, and earthquake and volcanic eruptions, or any combination thereof. Disaster includes a related condition that occurs as a result of the damaging weather and exacerbates the condition of the crop, such as disease and insect infestation.

Eligible crop means a crop insured by FCIC as defined in part 400 of this title, or included under the non-insured crop disaster assistance program (NAP) as defined under part 1437 of this chapter. Tobacco, sugar cane, and sugar beets are not eligible under this part. Losses of livestock and livestock related losses are not compensable under this part but may, depending on the circumstances, be compensable under part 1439 of this chapter.

End use means the purpose for which the harvested crop is used, such as grain, hay or seed.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by RMA for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For non-insurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means with respect to aquacultural species, placing the aquacultural facility in an area not prone to flood; in the case of raceways, providing devices or structures designed for the control of water level; and for nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means for aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals; and for nursery crops, media designed to prevent root rot and other media-related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced

Harvested means:

(1) For insured and uninsured crops, harvested as defined according to the applicable crop insurance policy;

(2) For non-insurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock;

(3) For non-insurable crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field during the crop year;

(4) For mechanically harvested non-insurable crops, that the crop has been

removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield. The COC may adjust the yield if the producer, practice, crop type or area is not capable of producing a crop at that level during the normal year. The yield may also be adjusted, or production assigned for ineligible causes of loss. The historic yield for:

(1) An insured participant shall be the higher of the county average yield listed on the crop table or the approved federal crop insurance APH, for the disaster year.

(2) NAP participants shall be the higher of the county average yield as listed on the crop table or approved NAP APH for the disaster year.

(3) Participants without federal crop insurance or NAP coverage for the disaster year shall be assigned the county average listed on the crop table.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except if the Group Risk Plan or Adjusted Gross Revenue Plan of crop insurance was the only plan of insurance available for the crop in the county in the applicable crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to 7 CFR chapter IV and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Limited coverage means plans of crop insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

Maximum loss level means the maximum level of crop loss to be applied to a producer without acceptable production records. Loss levels are expressed in either a percent of loss or yield per acre, and should reflect the amount of production that a producer should have made considering the eligible disaster conditions in the area or county, as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and/or grazing.

Multiple cropping means the planting of two or more different crops on the same acreage for harvest within the same crop year.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NASS means the National Agricultural Statistics Service.

Net Crop Insurance Indemnity means the indemnity minus the producer paid premium.

Non-insurable crops means those crops for which crop insurance was not available.

Normal mortality means the percentage of dead aquacultural species that would normally occur during the crop year.

Pass-through funds means revenue that goes through, but does not remain in, a person's account, such as money collected by an auction house or consignment business that is subsequently paid to the sellers or consignors, less a commission withheld by the auction house.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed,

appropriate for the crop and planting method, at a correct depth, into a seed bed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Prevented planting means the inability to plant an eligible crop with proper equipment during the planting period as a result of an eligible cause of loss, as determined by CCC. The eligible cause of loss must have:

(1) Occurred after a previous planting period for the crop, and

(2) Occurred before the final planting date for the crop in the applicable crop year or in the case of multiple plantings, the harvest date of the first planting in the applicable planting period, and

(3) Generally affected other producers in the area, as determined by CCC.

Production means quantity of the crop or commodity produced expressed in a specific unit of measure such as bushels, pounds, etc.

Rate means price per unit of the crop or commodity.

Related condition means with respect to disaster, a condition that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated as a result of damaging weather as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

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Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cabbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

State committee means the FSA State committee.

Uninsured crops means those crops for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, basic unit as described in part 457 of this title that, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For all non-insurable crops, if available, the established unit of measure used for the 2002 Noninsured Crop Assistance Program price and yield;

(3) For aquacultural species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquacultural species or varieties;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and to the extent the Deputy Administrator determines it to be feasible and appropriate Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the former Trust Territory of the Pacific Islands, which include Palau, Federated States of Micronesia and the Marshall Islands.

USDA means United States Department of Agriculture.

Value loss crop will have the meaning assigned in part 1437 of this chapter.

Verifiable production records means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

Yield means unit of production, measured in bushels, pounds, etc., per area of consideration, usually measured in acres.

§ 1480.4 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered losses of eligible crops in 2001 or 2002 as a result of a disaster or related condition, or as further specified in this part. Producers may not receive benefits with respect to volunteer stands of crops.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12, for the 2001 or 2002 crop year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law.

§ 1480.5 Time for filing application.

Applications for benefits under the 2001 or 2002-Crop Disaster Program must be filed in the county FSA office serving the county where the producer's farm is located for administrative purposes before the close of business on August 25, 2003, or such other later date that may be announced by the Deputy Administrator.